

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DAVID E. MACK,

Plaintiff,

v.

**EQUABLE ASCENT FINANCIAL,
LLC,**

Defendant.

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CASE NO. 4:11-cv-793

FINAL PRE-TRIAL ORDER

This cause came before the court at a pre-trial conference held on January 16, 2013 pursuant to Local Rule CV-16 and Rule 16 of the Federal Rules of Civil Procedure.

This proposed Final Pre-Trial Order is submitted by the Defendant only for the reason that the Plaintiff has not contacted the Defendant for the purpose of preparing a Joint Final Pre-Trial Order.

A. COUNSEL FOR THE PARTIES

Plaintiff(s): David E. Mack (pro se)

Defendant(s): Keith Wier

B. STATEMENT OF JURISDICTION

Jurisdiction in this case is 15 U.S.C. § 1681p and 28 U.S.C. § 1331.

Jurisdiction is not disputed.

C. NATURE OF ACTION

This is a suit based on alleged violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq* arising from what the Plaintiff alleges to be obtaining credit information without a permissible purpose in which the Plaintiff seeks to recover statutory damages and (even though the Plaintiff is *pro se* and not an attorney), attorney's fees and costs.

D. CONTENTIONS OF THE PARTIES

The Defendant contends that it had a permissible purpose for obtaining the Plaintiff's credit information as "one who intends to use the information, as a potential investor or servicer in connection with a valuation of, or an assessment of the credit or prepayment risks associated with an existing credit obligation," pursuant to 15 U.S.C. § 1681b(a)(3)(E). The Defendant further contends that the Plaintiff's cause of action is barred by limitations. There is before the Court a Motion for Summary Judgment filed by the Defendant. The Plaintiff has filed a response and the Defendant has filed a reply thereto.

E. STIPULATIONS AND UNCONTESTED FACTS

None.

F. CONTESTED ISSUES OF FACT AND LAW

The following are issues of law which the Defendant believes to be contested. It is the position of the Defendant that there are no contested issues of fact.

Whether or not limitations had expired prior to the filing of this suit;

Whether or not the Defendant had a permissible purpose for obtaining the Plaintiff's credit information;

G. LIST OF WITNESSES

Roberto Rodriguez, Director of Analytical Operations for the Defendant, Equable Ascent Financial, LLC

Jeff Hassenmiller, Legal Agency Network Manager, Equable Ascent Financial, LLC

Stephen Auburn, General Counsel, Equable Ascent Financial, LLC

H. LIST OF EXHIBITS

Plaintiff, David E. Mack's Responses to Defendant's First Set of Interrogatories and Request for Production of Documents

I. LIST OF ANY PENDING MOTIONS

Defendant's Motion for Summary Judgment [Docket No. 24].

Defendant's Motion in Limine [Docket No. 29] and the Plaintiff's objections thereto [Docket No. 32];

J. PROBABLE LENGTH OF TRIAL

Less than one day.

K. MANAGEMENT CONFERENCE LIMITATIONS

None

L. CERTIFICATIONS - The undersigned counsel for the Defendant hereby certifies and acknowledges the following:

1. Full and complete disclosure has been made in accordance with the Federal Rules of Civil Procedure and the Court's orders. Although a Rule 26(f) conference was held by the parties, no provision was made for Initial Disclosures. Consequently, neither the Plaintiff nor the Defendant have served initial disclosures on the opposing party.
2. Discovery limitations set forth in the Federal Rules of Civil Procedure, the Local Rules, and the Court's orders have been complied with and not altered by agreement or otherwise.
3. Each exhibit in the List of Exhibits herein (a) is in existence, (b) is numbered, and (c) has been disclosed and shown to opposing counsel;

Approved as to form and substance:

//s// Keith Wier
Attorney for Defendant

This Pre-Trial Order is hereby approved this _____ day of _____,
20____.

UNITED STATES DISTRICT JUDGE